



RE NEWS



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INSIDE THIS ISSUE • INSIDE THIS ISSUE • INSIDE THIS ISSUE • INSIDE THIS ISSUE

New Land Use Legislation –
Tips On Handling Changes.....1

RR Program Seeks Additional EPA
Brownfields Funding.....2

State Announces Settlement With
Road Builder Over
Well Contamination.....3

Rural Community Takes Advantage
Of Brownfield Site Assessment
Grant.....4

Disadvantage Communities Network
Hosting Webcast December 14.....5

Brownfield Redevelopment –
The Community Land Trust
Model.....6

An Insider's Look at the Web –
No Small Changes!.....7

New, Revised Publications.....7

Staff Updates.....7

FEATURE

New Land Use Legislation – Tips On Handling Changes

With the recent passage of Wisconsin Act 418, as of June 3, 2006, listing a closed site on the GIS Registry of Closed Remediation Sites is now required for all situations where a deed restriction was formerly required.

This means that a complete GIS information packet, which is part of the closure request form, and the corresponding fee for soil and/or groundwater are required for a closure review. With the passage of Act 418, the land use limitations or conditions are now specified in the closure letter, and stay with the property if ownership changes.

For sites closed with some type of cap or engineering control, the maintenance requirements will be included in the closure approval letter. Both the



closure letter and the maintenance requirements will be included in the packet of information that is available on the GIS Registry, one of the Remediation and Redevelopment (RR) Program's on-line databases of contaminated properties.

Sites using some type of cap or engineering control, sites with structural impediments to investigation or cleanup, and those that used industrial soils standards will all receive limitations or conditions similar to those previously

NEW LAND USE LEGISLATION – TIPS ON HANDLING CHANGES (CON'T.)

found in deed restrictions. Responsible parties are strongly urged to work out maintenance or other agreements with any affected parties prior to submittal of the closure request to the state. This will help ensure a timely review.

Affected parties may include owners of neighboring property that has been impacted, or sometimes the owner of the property where the contamination originated, if that owner is not the person conducting the cleanup.

Inclusion on the GIS Registry is required for sites with residual soil or groundwater contamination, and for sites with the following circumstances.

1. Sites closed using industrial soil standards, generic or site-specific.
2. Sites closed with a remaining structural impediment (e.g. a building) that prevented completion of a site investigation or cleanup.
3. Sites closed using a soil cover, cap or engineering control for direct contact control.
4. Sites closed using a soil cover, cap, building or engineering control for protection of the groundwater pathway.

Deed Notices Still Used

The new legislation eliminated deed restrictions as the method for implementing such land use controls as maintaining a layer of clean soil over contaminated soil. Instead, this type of requirement is specified in the case closure letter, and the information is added to the GIS Registry. However, the legislation did not change the DNR's ability to place deed notices on property when necessary. For example, DNR staff would use a deed notice to advise the public about groundwater monitoring wells that have not been properly identified and marked after cleanup, or those well that have not been properly abandoned.

Maintenance Plans Are Needed for Both Pervious and Impervious Surfaces

Case closure with certain types of land use controls require maintenance plans to be submitted and approved by the state. Often DNR receives maintenance plans that describe how an impervious surface – such as a building or paved area – will be maintained. However, a maintenance plan is also required for such pervious surfaces as topsoil and graveled areas over contaminated soil. For example, gravel or topsoil must be replaced and properly graded if it has eroded.

For more information, please contact Jane Lemcke at 608-267-0554 or jane.lemcke@wisconsin.gov.

RR Program Seeks Additional EPA Brownfields Funding

The RR Program is seeking additional federal brownfields funding through the U.S. Environmental Protection Agency (EPA) that would replenish two Wisconsin grant funds used in assessing and cleaning up brownfields.

The first fund, the Ready for Reuse Grant and Loan Program, provides grants and no-interest loans to local governments for environmental cleanup at eligible properties. The department is seeking an additional \$3 million for Ready for Reuse. In 2004, the DNR received \$4 million from EPA to establish the fund, and to date Wisconsin cities, villages and counties have requested nearly \$3 million.



"Many brownfields – such as old gas stations and vacant industrial or commercial facilities – can be "Ready for Reuse" after initial investment of public dollars help resolve their environmental problems," said Darsi Foss, Brownfields Section chief with the RR Program.

The departments of Commerce and Administration and Wisconsin's nine regional planning commissions are DNR's partners in seeking the Ready For Reuse monies.

RR PROGRAM SEEKS ADDITIONAL EPA BROWNFIELDS FUNDING (CON'T.)

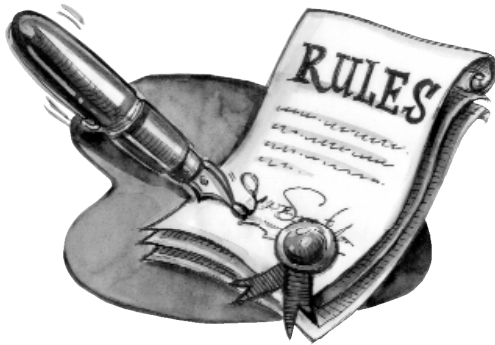
The second fund, the Urban Reinvestment Initiative, is used to assess brownfields in Milwaukee's 30th Street Industrial Corridor.

"Assessing and cleaning up brownfields helps return tax delinquent properties to productive uses and leads to new job opportunities," said Foss.

The DNR is also seeking an additional \$400,000 for Governor Jim Doyle's Urban Reinvestment Initiative, an economic-environmental strategy that has targeted Milwaukee's 30th Street Industrial Corridor as a top project. The department has partnered with the city of Milwaukee and the 30th Street Industrial Corridor Coalition, and initially received \$400,000 from EPA in 2005. To date the city has completed 15 property assessments in the corridor.

For more information about the 30th Street brownfields funding, please see <http://dnr.wi.gov/org/aw/rr/rbrownfields/uri-30th-street.htm>. For more information about Ready for Reuse, please see http://dnr.wi.gov/org/aw/rr/financial/epa_revolvingloan.html.

State Announces Settlement With Builder Over Well Contamination



In October, Wisconsin Attorney General Peg Lautenschlager announced a settlement in a case brought against R. W. Miller & Sons, Inc., a road building and gravel mining operation with offices and a quarry near Lake Geneva, Wisconsin.

The lawsuit, filed two years ago, alleged that the company's failure to properly handle stockpiled road salt on its business premises caused neighboring drinking water wells to become contaminated with salt, rendering the water undrinkable. The lawsuit also alleged that the company failed to monitor and make yearly reports to the DNR on the quality of groundwater in the area as required by a stormwater pollution control permit that

first applied to R. W. Miller's operations in the fall of 2000.

For decades, R. W. Miller & Sons has supplied local municipalities with mixtures of salt and sand for winter highway salting. According to company officials, the salt was purchased by Walworth County, which built a salt storage shed at the site, then mixed the salt with sand from R. W. Miller's quarry. The company acted as the sales agent for Walworth County when other municipalities purchased the road salting mix for use on their roads.

Salt storage and mixing operations at the site ended in 2002, several years after neighbors reported finding excessive amounts of salt in their wells. The Department of Natural Resources (DNR) first began investigating the problem in 1999, and in late 2003 asked the Department of Justice to bring this case. Assistant Attorney General Thomas Dosch represented the state.

To settle the matter, R. W. Miller has agreed:

- to pay for the replacement of three neighbors' wells;
- to abandon two wells on its own property which otherwise could slow the restoration of groundwater quality in the area; and
- to pay penalties and costs totaling \$40,000 for its past violations of the stormwater pollution control permit.

"Groundwater is a vital resource we often take for granted until it is adversely impacted," Lautenschlager said, "and it is the DNR's role to ensure groundwater is adequately protected."



SUCCESS STORIES

Rural Community Takes Advantage Of Brownfield Site Assessment Grant

Since 2000, when DNR awarded the first Brownfields Site Assessment Grants (SAGs), the agency has received more than 520 SAG applications, and awarded 305 grants totaling \$10 million to 150 Wisconsin communities.

With all that success, what gets lost among all the media hype about high-profile properties in bigger cities like Milwaukee, Green Bay and Kenosha is the successful brownfields cleanups in rural towns across Wisconsin. For example, during the last round of SAG awards handed out in early 2006, nearly half of the 50 grants went to rural or small communities.



The former U.S. Casting property in Ladysmith. The site had been vacant and abandoned since the 1980s (city of Ladysmith photo).

"Many citizens are unaware that these grants can jump-start cleanup and redevelopment for small towns and rural areas as they do for the more populated sections of the state," said RR Program Bureau Director Mark Giesfeldt. "Brownfield grants have been, and continue to be, available for all Wisconsin communities."



The Casting property after cleanup and redevelopment was completed. Utilizing a DNR Brownfield Site Assessment Grant to jump start the project, Ladysmith officials are now leasing the property to a local business (photo by John Sager).

Over in western Wisconsin in Rusk County, the small city of Ladysmith and its 4,000 residents have taken that idea to heart. Working with RR Program staff, local officials applied for and received a brownfields site assessment grant totaling \$16,400.

That amount may not seem like a lot of dollars to clean up anything, but for Ladysmith and hundreds of other Wisconsin towns and villages, the funding is well served as seed money to turn around blighted properties.

The former U.S. Castings property in Ladysmith is a small, 2.5 acre-plot that had been vacant and

RURAL COMMUNITY TAKES ADVANTAGE OF BROWNFIELD SITE ASSESSMENT GRANT (CON'T.)

abandoned since the 1980s. With the site containing mostly low-level soil contamination, local officials were anxious to see this eyesore returned to the tax rolls, but lacked an appropriate tool to make it happen.

After the SAG program began in 2000, the county took title to the property, applied for and received the SAG grant to conduct Phase I and II environmental site assessments and remove abandoned containers.

As has been the case with many SAG awards, that initial, small chunk of funding was a catalyst for additional assistance, and for Ladysmith it took the form of a \$1 million Economic Development Administration grant to completely renovate the main factory building on the property.

Today officials are leasing the properties to R5 Processors, a local business bringing jobs and additional tax revenue to Ladysmith, all from an initial grant of only \$16,400. Not bad for a small town located in the middle of America's rural dairyland.

Disadvantage Communities Network Hosting Webcast December 14

The Disadvantaged Brownfields Communities Network will host a 90-minute webcast entitled *Dollars and Sense: Smart Brownfields Financing Options for Disadvantaged Communities*, on December 14, at 2 p.m. Central Standard Time.

Webcast presenters will provide an overview of federal and state financing resources, discuss how to prepare brownfield properties for private investment, and showcase communities that have implemented effective financing strategies. The webcast goal is to help distressed urban neighborhoods, as well as rural communities, identify new financing opportunities for brownfields renewal.

Webcast speakers will include:

- Charlie Bartsch, ICF Consulting, Washington, D.C.;
- Bonnie Anderson, ShoreBank Pacific, Portland, OR;
- Randy Muller, Bank of America, Lawrenceville, GA. and
- Mark Gregor, city of Rochester, NY.

The target audience for this webcast is elected leaders, local government managers, planning and economic development directors, community development officials, environmental justice representatives and other brownfields stakeholders.

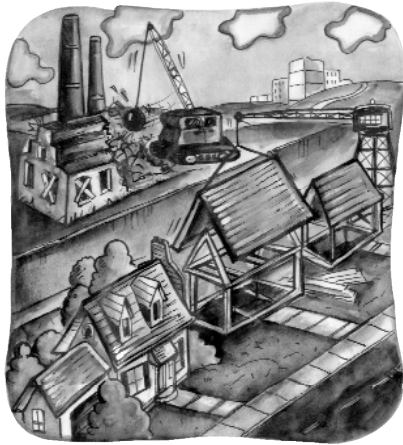
A webcast combines telephone and Internet technology to give local government managers and their staffs the opportunity to gain relevant, useful information without travel, at low cost, and through a medium that encourages collegial discussion of concerns and issues. Participants must have a computer with Internet access (56K modem or higher) and a separate telephone line for the audio portion of the webcast.

The Disadvantaged Brownfields Communities Network is managed by the Northeast-Midwest Institute, the Sustainable Community Development Group and the Ferguson Group.

The webcast is free to the first 100 registrants, after which the cost will be \$40 per site. For more information and to register, visit <http://www.eventbuilder.com/encounter/DBCN>. More information is also available at 202-454-3922, or aseth@tfgnet.com.



Brownfield Redevelopment – The Community Land Trust Model



For many, the remediation and redevelopment of brownfields can be hampered by one or more of the following: the prohibitive costs involved in cleanup, uncertainty over liability and poor community involvement in what can often be a lengthy bureaucratic process.

The community land trust (CLT) model offers a unique solution to all of these issues. Through public-private partnerships, cost sharing and a strong public participation process, community land trusts can minimize cleanup costs, add to regional affordable housing markets, protect private interests from liability and draw support from both local and regional resources.

The Community Land Trust Model

Many people may be familiar with the more common form of the land trust model, the conservation land trust. The goal of conservation land trusts is to conserve or protect land from development pressure. In this model, the land is severed from its development rights and, while the land is retained by the individual, the development rights are gifted or sold to the land trust. This ensures that the property cannot be developed at a later date.

In a community land trust model, the goal is much different. In this model, the land trust holds title to the land and provides long term lease agreements to the businesses or individuals who use the land. Here, the goal is to increase economic and residential vitality by making property more affordable. Individuals have the right to build structures and can retain ownership of those structures. This decreases the startup cost because individuals do not have to invest in the land.

Sharing Cleanup Costs, Dealing With Liability

A major roadblock to brownfield cleanup is often the cost involved in remediation. Under a CLT model, a local government or land trust can approach brownfields redevelopment at the regional level. This area-wide approach allows CLTs to share costs involved in cleanup, disposal and redevelopment in a way not possible when handled at the individual parcel level.

Liability is always a concern when dealing with contaminated property, and often developers will seek out other opportunities that present them with fewer legal hassles or perceived financial risk. One approach a municipality can take to make properties more enticing is to structure a redevelopment or housing authority as a land trust.

The redevelopment authority can then offer long-term leases to individuals or businesses, and the lessee would retain ownership of any structure they built upon the land. Protection from liability for the lessee would be contingent upon how the lease is written, so it is advisable to consult with the DNR in these situations. Additionally, the lessee would need to ensure that their activities do not worsen or create new contamination on the site.

Strong Public Involvement

Since abandoned or idle properties often translate to poor economic performance for the community, brownfield problems often mean community problems. In these situations, it is only natural to involve the community in the redevelopment process. This type of community involvement can lead to a neighborhood or community vision that is essential to the comprehensive planning process.

There are several examples that demonstrate how grassroots organizations can transform communities and clean up neighborhoods affected by brownfields. One example is the Dudley Street Neighborhood Initiative in Boston, Massachusetts. Much of the redevelopment in the Dudley Street area is completed by Dudley Neighbors Incorporated (DNI), a community land trust. Public involvement with the city through DNI has allowed the residents to have a voice in determining the future of their community.

The Right Fit For The Right Community

While the community land trust model may not work for everyone, it can be a useful tool for communities that face many spatially segregated brownfields, have concerns over liability or wish to create a community-based redevelopment plan. The result will be a grassroots-oriented program that benefits not only the local government but serves the community as well.

An Insider's Look at the Web – No Small Changes!

A couple of big changes are coming to web-related technology at the DNR, and we wanted to give you a heads up!

First, our email addresses have changed. All DNR staff email addresses will now be in the following format: `firstname.lastname@wisconsin.gov`. Although our old email addresses will continue to work in the near future, please start to use this new email format. We are also working to update all emails on our web site as well as all our publications.

Secondly, the DNR is in the process of switching web servers to a new system at the Department of Administration (DOA). This effort will take some time and involve a major effort by DNR and DOA staff, and though we are trying to make this transition as smooth as possible, we may experience some technical difficulties over the next few months. We appreciate your patience as we work to keep our web site as current as possible during the transition period.

If you have any questions about new email addresses or the Internet, or have any other web-related questions, please contact Jessica Milz at jessica.milz@wisconsin.gov.

New, Revised Publications

Updated RR Brochures Now Available!

The RR Program has updated its three main brochures, the *Remediation and Redevelopment Program* (publication #RR-691), *Brownfields Basics* (publication #RR-663), and *Brownfields Basics For Local Governments* (publication #RR-658).

The brochures were originally published in 2001 and 2002, and provide the most current information on RR Program services, including technical assistance, state-funded response funding, brownfields tools and outreach assistance. The brochures also include updated information on RR Program publications, web links and staff contacts, as well as links to other state and federal organizations offering remediation and redevelopment assistance.

The package of RR Program brochures are available on line at the following links:

- *Remediation and Redevelopment Program* (publication #RR-691) <http://dnr.wi.gov/org/aw/rr/archives/pubs/RR691.pdf>;
- *Brownfields Basics* (publication #RR-663) – <http://dnr.wi.gov/org/aw/rr/archives/pubs/RR663.pdf> ; and
- *Brownfields Basics For Local Governments* (publication #RR-658) – <http://dnr.wi.gov/org/aw/rr/archives/pubs/RR658.pdf>.

Staff Updates

Northeast Region

Vickie Wall has recently been hired as an RR Program hydrogeologist for the DNR's Northeast Region. Vickie will be reviewing DNR case files related to Department of Transportation (DOT) projects in the region's northern counties. Previously, Vickie has worked as a project manager for the Illinois Environmental Protection Agency and also managed the Manitowoc County Recycling Facility. She also currently works for UW-Extension as a trainer in the Water Action Volunteer Program. Welcome Vickie!

Northern Region

Janet Kazda, the Northern Region's RR Program Assistant, has recently changed her name to Anna Kazda.

Central Office

Jessica Milz was recently hired as the RR Program's new marketing specialist and **Shelley Fox** was recently hired as the program's new grant specialist. Both staff have previously worked for the RR Program for several years; Shelley as the former program fiscal specialist and Jessica as an LTE loan specialist, brownfield outreach specialist and program assistant. Welcome Jessica and Shelley!

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For More Information: *Re News* is published quarterly by the Wisconsin Department of Natural Resources Bureau for Remediation and Redevelopment.

This newsletter is available in alternate format upon request. Please call 608-267-3543.

Our Web Site Is : <http://www.dnr.wi.gov/org/aw/rtr>

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This newsletter may contain summary information about certain state statutes and/or rules and does not include all of the details found in the statutes/rules. Readers should consult the actual language of the statutes/rules to answer specific questions.

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